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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	<b>Application Number</b>	10/729,309	
	<b>Filing Date</b>	December 5, 2003	
	<b>First Named Inventor</b>	DOBBS, Gregory M.	
	<b>Group Art Unit</b>	3753	
	<b>Examiner Name</b>	FLANIGAN, Allen J.	
<b>Total Number of Pages in This Submission</b>	8	<b>Attorney Docket Number</b>	965_009CON2

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Mailroom Postcard; and Certificate of Mailing via Express Mail.
<b>Remarks</b>		The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

<b>Firm or Individual name</b>	Wall Marjama & Bilinski LLP Joseph B. Milstein, Ph.D.	<b>Reg. No.</b> 42,897
<b>Signature</b>		
<b>Date</b>	February 18, 2005	

**CERTIFICATE OF MAILING**

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/729,309  
Applicant : Gregory M. Dobbs, et al.  
Filed : December 5, 2003  
Title : A PLATE-TYPE HEAT EXCHANGER  
TC/A.U. : 3753  
Examiner : FLANIGAN, ALLEN J.  
Docket No. : 965-009CON2  
Customer No. : 20874

Mail Stop Amendment  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office on January 18, 2005, Applicants hereby elect the heat exchanger configuration of Fig. 7-10 and the membrane species of Fig. 13. Applicants believe that this election represents a substantive and complete response to the Restriction Requirement.

Applicants believe that the following claims correspond to the elected species:

Generic claim 37 directed to an energy recovery ventilator ("ERV") comprising a separator comprising an at least partially sulfonated random hydrocarbon copolymer ionomer membrane;

Dependent claim 38 (further limiting membrane in ERV of claim 37 to be permeable to water vapor, which permeability is described at paragraphs [0040] through [0043] of the Specification, but which is not shown explicitly in a Figure);

Dependent claim 41 (limiting gas streams in ERV of claim 37 to crossflow relationship as shown in the embodiment of Fig. 7);

Dependent claim 42 (adding limitation of a three-dimensional structure disposed in at least one passageway of ERV of claim 37 as shown in the embodiment of Fig. 13);

Dependent claim 43 (further limiting three-dimensional structure of claim 41 to structure that comprises pyramids as shown in the embodiment of Fig. 8).

Dependent claim 46(the ERV of claim 37, further comprising a substantially two-dimensional reinforcement structure associated with the membrane to support the membrane, as shown in the embodiment of Fig. 13); and

Dependent claim 47 (the ERV of claim 46 wherein said substantially two-dimensional reinforcement structure comprises a two dimensional trigonal structure, as shown in the embodiment of Fig. 13).

Applicants respectfully wish to point out that they believe that generic claim 37 is allowable because of the novel composition of the “an at least partially sulfonated random hydrocarbon copolymer ionomer membrane.” Applicants respectfully point out that, in such an instance, all claims depending from an allowable generic claim are also allowable. Hence, in the event that generic claim 37 is deemed allowable, claims 39, 40, and 44-45, and 48-52 are also to be considered as elected claims, and in this regard, Applicants traverse the Restriction Requirement.

Applicants believe that no fees are due on account of the submission of this paper. However, if Applicant is incorrect and fees are due, the Director is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0289.

Applicants attach hereto a copy of all claims presently pending in the application. Claims 37-52 were originally present at the time the present application was filed. Applicants believe the pending claims of the above-captioned application are in allowable form and are patentable over the prior art of record. Applicants respectfully request consideration of the pending claims and a prompt Notice of Allowance thereon.

Response to Restriction Requirement  
USSN 10/729,309  
Attorney Docket No. 965-009CON2  
Inventor: DOBBS et al.  
Page 3

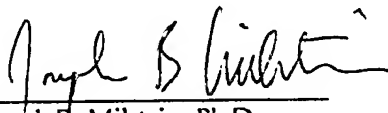
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Please direct any questions or comments to Joseph B. Milstein at (315) 425-9000.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

Date: February 18, 2005

  
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